

Remarks

Claims 1-54 were noted in the aforesaid Office Action as pending in the application. Claims 1-39, 44 and 45 were indicated as withdrawn. Claims 52-54 have been canceled herein. No new claims have been added, leaving claims 40-43 and 46-51 for further consideration.

Claims 40-43 and 46-51 stand rejected under 35 U.S.C. 112 inasmuch as the method step of applying a suction to draw tissue against a distal end of a shaft and against effector mechanisms was not included in the claims.

Claim 40 has been amended to include in the apparatus provided a shaft "adapted to provide a suction therethrough" and the method includes the step of "applying suction to the effector mechanisms so as to reconfigure the tissue and capture the tissue".

The provision and use of this suction feature is described in the specification at page 18, line 19; at page 19, lines 2, 10, 13-15 and 20; at page 23, line 22; at page 25, line 11; at page 29, lines 6 and 20; at page 31, line 11, and at page 32, line 10.

It appears then that language deemed critical by Examiner has been added to claim 40 and is supported by the specification.

Claims 41-43 and 46 and 47, depend directly or ultimately from claim 40.

Similarly, claim 48 includes the limitations of "at least one gripping element comprises a suction pod for drawing tissue against the effector mechanism and for maintaining the tissue in

such engagement while suction is maintained". Claim 48 has been amended to include the method step of "applying a suction to the suction ports of the actuator end of the shaft and thereby to the suction ports of the effector mechanisms, thereby gripping tissue...".

Claims 49-51 depend directly or ultimately from claim 48.


It therefore appears that claims 40-43 and 46-51 now contain as an element and step of the invention the provision of, and operation of, suction means for grasping tissue.

Accordingly, the allowance of claims 40-43 and 46-51 appears to be in order and is most respectfully requested.

In the event that any fees may be required in this matter, please charge the same to Deposit Account No. 16-0221.

Thank you.

Respectfully submitted,



Scott R. Foster

Registration No. 20,570

Pandiscio & Pandiscio, P.C.

470 Totten Pond Road

Waltham, MA 02451-1914

Tel. (781) 290-0060

EM/LIDDICOHN123.AMD2

LIDDICOHN-123